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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Peter H. Maxson

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EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT

PAPER NUMBER

2621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,059	<b>Applicant(s)</b> MAXSON, PETER H.	
	<b>Examiner</b> Andy S. Rao	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on the RCE filed on 4/10/07.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/10/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed with respect to claims 1-12 as filed on 4/10/07 have been fully considered but they are not persuasive.

3. Claims 1, 5-8, and 12 remain rejected under 35 U.S.C. 102(b) as being anticipated by Pecorino et al., (hereinafter referred to as "Pecorino"), as in the Office Action of 6/1/06.

4. Claims 2-4, and 9-11 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Pecorino et al., (hereinafter referred to as "Pecorino"), as in the Office Action of 6/1/06.

5. The Applicant presents three arguments contending the Examiner's rejection of claims 1, 5-8, and 12 under 35 U.S.C. 102(b) as being anticipated by Pecorino et al., (hereinafter referred to as "Pecorino"), and one argument contending the Examiner's rejection of claims 2-4, and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Pecorino et al., (hereinafter referred to as "Pecorino"), said rejections being set forth in the Office Action of 6/1/06. However, after a careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow.

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After summarizing the current stage of prosecution regarding claims 1, 5-8, and 12 (RCE of 4/10/07: page 4, lines 1-8), providing a synopsis of the basis of the Examiner's position on the definition of the term "rigid" (RCE of 4/10/07: page 4, lines 9-21) and submitting support for Applicant's understanding of the definition as derived from the "airship" environment as it appeared in Wikipedia on-line at the time of the Applicant's submission (RCE of 4/10/07: page 4, lines 22-27), the Applicant argues that the Examiner's application of the term "rigid" does not hold because the primary characteristic of rigid is arrived at by composition and not by being restrained in place (RCE of 4/10/07: page 5, lines 2-10). The Examiner respectfully disagrees. Both characteristics of being rigid are given equal weight. One is not better than the other. Additionally, it is noted that the Examiner doesn't consider reliance upon Wikipedia on-line as helpful towards the discussion as Wikipedia is not subject to a final critical review, but is constantly being updated, and therefore is not an unimpeachable reference. That being said, it is noted that the Examiner's definition of "rigid" (i.e. being restrained in place) is equally or even more applicable to the claims as the Applicant's reliance upon the term "rigid" (i.e. composition based). Firstly, there are no qualifying limitations directed towards the chemical composition of the panel (i.e. plastic, fiberglass, and etc) versus something deformable (i.e. foam, vinyl rollers, and etc), so the Applicant's reliance upon that definition fails there. It is further noted that as it appears in the claims, said panel is only geometrically defined (i.e. faces and edges) which are attachable surfaces for *being held in a particular position*. Furthermore, the Examiner notes that there is a deployment step; such a feature is more in line with putting something in place, and not having anything to with composition. Accordingly, the Examiner maintains that rigid "...as

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being restrained in place...” is the logical and only supportable interpretation of the term “rigid” as currently claimed.

Secondly, the applicant argues that since the “rigid” feature of the panel is an explicitly claimed limitation, it does not need to be read in from the specification because it is a specific claim limitation (RCE of 4/10/07: page 5, lines 10-23). The Examiner respectfully disagrees. It is clearly not an explicit limitation since there is ambiguity in which definition remains applicable, as discussed above. Also, the specification is always connected with every limitation in claim in particular to resolve 35 U.S.C. 112 first and second paragraph issues. As such, the Examiner notes that since the only feature of the panel that consistently recited throughout the limitations is that it is “...planar...” that is all that Pecorino needs to address. There is no mention of the panel being rigid while being deployed, and any argument directed thereto carries little weight. As such, the Examiner maintains that Pecorino becomes “rigid” when fixed in place to cover the TV, and thus reads on claims.

After summarizing the pending rejection of claims 2-4 and 9-11 (RCE of 4/10/07: page 6, lines 1-8), and restating the Applicant’s stance on whether the “rigid” term is sufficiently addressed (RCE of 4/10/07: page 6, lines 10-13), the Applicant’s argue that Pecorino discloses only using a “...rolled cover...” and thus would not suggest to one of ordinary skill in the art not have sufficiently motivation for using a “rigid planar panel” as in the instant invention (RCE of 4/10/07: page 6, lines 14-23; page 7, lines 1-2). The Examiner respectfully disagrees. Firstly, in the stack of blinds configuration, the reference says, in lieu of a “rolled cover” which clearly suggests a system to lower the cover (Pecorino: column 2, lines 55-60). Secondly, the Examiner notes that as an alternative to the rolled cover, the reference discloses that the cover can be made

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of molded plastic or composite (Pecorino: column 2, lines 34-35). These materials clearly connote to one of ordinary skill in the art that the cover can be a non-deformable panel (i.e. more resistant to daily wear and tear), as an improvement of even over the stacked blinds cover. As such, the Examiner maintains that Pecorino sufficiently gives one of ordinary skill in the art sufficient motivation as depicted below.

The detailed rejection of record is repeated.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 5-8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pecorino et al., (hereinafter referred to as “Pecorino”).

Pecorino discloses a mountable television display concealment device capable of exposing a television display (Pecorino: figure 1), said concealment device comprising: a rigid planar panel with a front face, back face, and two side edges (Pecorino: column 2, lines 15-21); at least one support bracket with a front face, back face, and two side edges wherein one of the side edges is adapted for securing on a vertical surface (Pecorino: column 2, lines 30-35); attachment means capable of fixedly engaging the side edges of the planar panel to one of the side edges of each support bracket (Pecorino: column 2, lines 2, lines 64-68); and means for pivoting the planar panel up from a first retracted position wherein the planar panel covers the

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television display to a second extended position wherein the display is visible for viewing (Pecorino: column 2, lines 55-62), as in claim 1.

Regarding claim 5, Pecorino discloses wherein the vertical surface is a wall (Pecorino: column 2, lines 63-66), as in the claim.

Regarding claim 6, Pecorino discloses wherein the vertical surface is a recessed cabinet (Pecorino: column 3, lines 25-35), as in the claim.

Regarding claim 7, Pecorino discloses wherein the vertical surface is a recessed wall (Pecorino: column 3, lines 10-23), as in the claim.

Regarding claim 8, Pecorino further including input means for input of weight and size data to determine location of position of attachment means (Pecorino: column 2, lines 40-55), as in the claim.

Regarding claim 12, Pecorino discloses wherein the pivoting means is a hinge (Pecorino: column 2, lines 30-34), as in the claim.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-4, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pecorino et al., (hereinafter referred to as "Pecorino").

Pecorino discloses a mountable television display concealment device capable of exposing a television display (Pecorino: figure 1), said concealment device comprising: a rigid planar panel with a front face, back face, and two side edges (Pecorino: column 2, lines 15-21); at least one support bracket with a front face, back face, and two side edges wherein one of the side edges is adapted for securing on a vertical surface (Pecorino: column 2, lines 30-35); attachment means capable of fixedly engaging the side edges of the planar panel to one of the side edges of each support bracket (Pecorino: column 2, lines 2, lines 64-68); and means for pivoting the planar panel up from a first retracted position wherein the planar panel covers the television display to a second extended position wherein the display is visible for viewing (Pecorino: column 2, lines 55-62; column 3, lines 50-55), as in claims 2-4. However, Pecorino fails to disclose that the front face of the planar panel is comprised of a mirror, or of a piece of art, or of a white board, as in claims 2-4. However, Pecorino discloses that the front face of the concealment device serves a decorative function (Pecorino: column 3, lines 7-11). Given this teaching, it would have been obvious for one ordinary skill in the art to incorporate a mirror, whiteboard, or piece of art into the Pecorino front face in order to serve the desired decorative function while also concealing the display. The Pecorino concealment, now modified to display a whiteboard, mirror, or piece or art into the front face, has all of the features of claims 2-4.

Pecorino discloses a mountable television display concealment device capable of exposing a television display (Pecorino: figure 1), said concealment device comprising: a rigid planar panel with a front face, back face, and two side edges (Pecorino: column 2, lines 15-21); at least one support bracket with a front face, back face, and two side edges wherein one of the side edges is adapted for securing on a vertical surface (Pecorino: column 2, lines 30-35);



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attachment means capable of fixedly engaging the side edges of the planar panel to one of the side edges of each support bracket (Pecorino: column 2, lines 2, lines 64-68); and means for pivoting the planar panel up from a first retracted position wherein the planar panel covers the television display to a second extended position wherein the display is visible for viewing (Pecorino: column 2, lines 55-62; column 3, lines 50-55), as in claims 9-11. However, Pecorino fails to disclose wherein the attachment device is a gas spring, a linear actuator, or is an electric cylinder, as in the claim. However, Pecorino discloses using a motor to manipulate a pulley or spring loaded system in raising or lowering the cover (Pecorino: column 2, lines 55-65), and one of ordinary skill in the art would realize that substituting a gas spring, linear actuator, or electric cylinder would be an obvious improvement over the Pecorino system in order to simplify the raising/lowering system of Pecorino. The Pecorino concealment, now modified to use gas springs, electric cylinders, or linear actuators, has all of features of claims 9-11.

### *Conclusion*

10. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Andy S. Rao  
Primary Examiner  
Art Unit 2621

asr

November 8, 2006

